IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2007

CORAM :

THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN

Writ Petition No.50327 of 2006 and M.P.No.1 of 2006

R.Murali .. Petitioner

v.

1. The District Collector
Kancheepuram District
Kancheepuram

2. The Deputy Director of Geology and Mining
Kancheepuram District
Kancheepuram

3. The Assistant Director of Geology and Mining
Kancheepuram District, Kancheepuram ... Respondents

Petition under Article 226 of the Constitution of India praying for the issue of a Writ of mandamus as stated therein.

For Petitioner : Mr.D.Sadhasivan
For Respondents : Mr.R.Thirugnanam,Spl.G.P.

ORDER

The writ petition is filed seeking for the relief of issuance of writ of Mandamus to direct the respondents to comply with Rule 8(8) of the Tamil Nadu Minor Mineral Concession Rules, 1959, in respect of lease in favour of the petitioner of the virgin stone quarry measuring an extent of 5.00.00 hectares comprising in Survey No.68/3 part in Vilankadu village, Cheyyar Taluk, Kancheepuram District.

2. The case of the petitioner is that the petitioner was originally granted mining lease for a period of five years commencing from 14.2.2007 to 13.2.2012 for quarrying blue metal in the property measuring an extent of 5.00.00 hectares comprising in Survey No.68/3 part in Vilankadu village, Cheyyar Taluk, Kancheepuram District. The petitioner has also executed lease deed for five years. According to the petitioner, as per Rule 8(8) of the Tamil Nadu Minor Mineral Concession Rules, the period of lease in respect of the stone quarry has to be granted ten years if the quarry is regarded as virgin quarry. This period was originally for five years only. Subsequently, on and from 17.11.2000, the amendment has been incorporated extending the period of lease to ten years in respect of virgin quarry. The quarry leased out to the petitioner is also a virgin quarry and as per the statutory

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provision, the period must be ten years. The petitioner is prepared to pay the balance lease amount in respect of the five years also. On that basis, the present writ petition is filed.

3. On the other hand, the respondents filed counter and it is contended that it is true that all the statutory statements made by the petitioner are correct, but the quarry cannot be regarded as virgin quarry as there was certain illicit quarrying in the area.

4. I heard the argument of the learned counsel on either side and perused the material on record.

5. The reasoning given in the counter cannot be regarded as a reason to non-suit the petitioner for the demand of the petitioner for grant of lease for a statutory period as provided under the Rules. The Government thought it fit that in respect of the virgin quarry the period should be ten years and that is the reason the provision has been amended to ten years from five years. Some third parties have illicitly quarried in a piece of area or particular quantity in the subject land cannot render the quarry as already exploited. If the Government has not leased out the quarry earlier, and it has not been exploited legally, it could only be regarded as a virgin quarry. Any illicit quarrying of small quantity cannot be regarded as an exploitation of quarry, and it comes outside the purview of Rule 8(8).

6. Hence, the respondents are hereby directed to grant lease in favour of the petitioner for ten years as provided under Rule 8(8) instead of five years. It is also open to the respondent to recover and realise from the petitioner the proportionate lease amount for the extended period of five years.

7. With this observation, the writ petition is disposed of. No costs. Consequently, the connected M.P. is closed.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1. The District Collector
   Kancheepuram District
   Kancheepuram

2. The Deputy Director of
   Geology and Mining
   Kancheepuram District
   Kancheepuram

3. The Assistant Director of
   Geology and Mining
   Kancheepuram District,
   Kancheepuram

+ 2 CCs to Mr.D.Sadhasivam, Advocate SR NO17964
+ 1 CC to the Government Pleader SR NO 18288

W.P.No.50327 of 2006

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